

REMARKS

Applicant requests favorable reconsideration and withdrawal of the objection and rejections set forth in the above-noted Office Action in view of the foregoing amendments and the following remarks.

Claims 1-7, 9, and 11-13 are now pending, with claim 1 being the only independent claim. Claims 1 and 2 have been amended herein. Support for the amendments can be found throughout the originally-filed disclosure, including, for example, in the originally-filed claims, and at paragraphs 0017, 0047, and 0048 of the specification. Accordingly, Applicant submits that the amendments do not include new matter.

Claim Objections

Initially, claim 1 is objected to in the Office Action on the basis of its use of the term “the current bill” without an antecedent basis. Claim 1, however, has been amended herein such that the term “the current bill” has been deleted. Accordingly, Applicant submits that this objection has been obviated.

The Office Action also suggests amending claim 1 to recite “a user savings account” and “payees” in the body of the claim in addition to the recitation of these terms in the preamble. Applicant notes that the amendments herein to claim 1 do incorporate both these terms into the body of the claim.

Claim 14 is also objected to in the Office Action. However, this claim has been cancelled. Thus, Applicant submits that this objection has been obviated.

Section 112 Rejections

Claims 1-7, 9, and 11-15 are rejected in the Office Action under 35 U.S.C. § 112, second paragraph, as being indefinite.

With respect to claim 1, the Office Action questions the terminology regarding paying less than the current bill on a debt. By the amendments herein, however, this terminology has been deleted. Accordingly, Applicant submits that this portion of the Section 112 rejection has been obviated.

Next with respect to claim 1, the Office Action indicates that the recitation of the “user financial information” comprising “at least one of” the various recited features could cause ambiguity in the claim. By the amendments herein, however, this recitation has been amended such that Applicant submits that there is no ambiguity in the claim.

Also with respect to claim 1, the Office Action questions which instance of “user income” and “said user income” the recited transferring step refers to, and the Office Action refers to “said user income” as possibly being “user income information related to user income, acquiring user income, etc.”

Applicant does not understand this portion of the Section 112 rejection, and traverses it to the extent that it implies the recitation of “user income” in the transferring step is indefinite. The Office Action appears to confuse the recitation of “user income” with the recitation of “user income information.” These are two different aspects of the claim, and Applicant submits that there is nothing indefinite in these recitations. That is, one of ordinary skill in the art would understand the meaning of “user income” as opposed to information about the user income. Moreover, nothing in the claim language is indefinite in its repeated recitations of “user income.” While the claim refers to “user

income” in relation to multiple features, there is nothing indefinite in such multiple recitations.

The Office Action also makes Section 112 rejections with respect to claims 14 and 15. These claims, however, have been cancelled. Accordingly, Applicant submits that the Section 112 rejections with respect to these claims have been obviated.

Section 101 Rejections

Claims 1-7, 8, and 11-15 are rejected in the Office Action 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Office Action asserts that that recited process is not tied to a particular machine.

In response, independent claim 1 has been amended herein to clarify the statutory subject matter of the claims. Specifically, claim 1 has been amended such that a step is tied to first and second computer systems communicating user financial information via a network, and with other steps of the recited process as being performed by the first computer system. Accordingly, Applicant submits that the Section 101 rejection has been overcome and should be withdrawn.

Section 103 Rejections

Claims 1 and 15 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over VanLeeuwen (U.S. Patent Application Pub. No. 2002/0123949) in view of the article “Pay Yourself First Still Works” (hereinafter “Chevreau”), Saylor et al. (U.S. Patent Application Pub. No. 2004/0111370) and Davis (U.S. Patent Application Pub. No. 2004/0193491). Claims 2-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the references cited against claims 1 and 15, as well as Ogilvie (U.S. Patent No. 6,631,358). Claims 9, 11, and 12 are rejected under 35 U.S.C. § 103(a)

as being unpatentable over the references cited against claims 1 and 15, as well as Postrel (U.S. Patent No. 6,594,640). Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references cited against claims 1 and 15, as well as Brose (U.S. Patent Application Pub. No. 2005/0004856). Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references cited against claims 1 and 15, as well as Chandak et al. (U.S. Patent Application Pub. No. 2003/0105689).

Applicant respectfully traverses the art rejections. Nevertheless, without conceding the propriety of the rejections, independent claim 1 has been amended so as to clarify features of the invention not disclosed or suggested by the cited references. To this end, Applicant submits that the claimed invention is patentably distinguishable from the cited references for at least the following reasons.

Amended independent claim 1 recites a method of allocating income to a user savings account and to payees. The method includes, inter alia, using a first computer system to analyze user dept information and provide a recommendation that minimizes current payments on user debts to payees and maximizes payments to the user savings account.

By virtue of these features, embodiments of the claimed invention may encourage a user to increase his or her savings by prompting the user to think of savings first, and further by providing recommendations for aggressive savings. See, e.g., paragraph 0046 of the specification.

At page 14 in the rejection of previously-pending claim 15, the Office Action asserts that VanLeeuwen teaches “a debt management plan and its associated recommendations.” The Office Action further asserts that most debt management plans

ultimately aim, in the long run, to minimize debt payments and maximize savings. The Office Action concludes, therefore, that it would have been obvious to one of ordinary skill in the art that it would have been obvious to one of ordinary skill in the art to modify VanLeeuwen to include providing at least one recommendation that includes a suggestion to minimize user debt payments and maximize user savings. The Office Action further asserts that one of ordinary skill in the art would do so in the situation of limited time for savings (e.g., if close to retirement).

Applicant respectfully submits, however, that minimizing debt payments and maximizing savings in the long run is not suggestive of provide a recommendation that minimizing current payments on user debts payees and maximizing payments to the user savings account. Most types of debt have interest that is charged until the debt is paid. Further, debts often have periodic required minimum payments, which if not met, result in monetary penalties being assessed. Thus, over the long term (as the Office Action refers to) the most often-used strategy is to make payments on a debt that minimize interest and penalties paid on the debt. This is not suggestive of “minimum current payments” on debt.

And in fact, the cited reference to VanLeeuwen suggests a strategy of making more than some minimized payment on a debt in order to minimize the amount of interest paid. Specifically, VanLeeuwen discloses:

Referring now to FIG. 5, the debt reduction logic considers the original principal amount 24, term length of the debt 20, and finally the interest rate 22 on the debt. These factors are combined and preferably measured against the baseline amount of principal owing 26 and allows the appropriate debt to be selected 28 and paid off first. The current principal amount can be used place [sic] of the original principal amount. Combining these factors provides a

metric for measuring the time value of money when determining a sequence of payments. It also provides a plan to pay off all debts in a reduced amount of time and to minimize the interest paid. This analysis can also consider the option of consolidating debts, if possible, to enhance the objective of minimizing interest charges and time. After a consolidation or partial consolidation has taken place then this analysis is reapplied.

Paragraph 0043 (Emphasis added). VanLeeuwen demonstrates the logic most often employed by one of ordinary skill in the art: in order to reduce a debt over the long term, the debt should be paid off as soon as possible, and in a manner that minimizes interest paid on the debt. Such a strategy does not suggest minimizing current payments on the debt, but rather, suggests making substantial payments on the debt.

Moreover, other portions of VanLeeuwen suggest that debt-payments are paid before money is allocated to any other purpose. For example, VanLeeuwen discloses that “[a]fter a user’s debts are paid off, [] payments can be applied to retirement or other future planning.” Paragraph 0087. As another example, VanLeeuwen notes that a method is provided “for determining a financial debt that should be paid down first to reduce a person’s overall financial debt.” Paragraph 0011. In fact, the large majority of the disclosure of VanLeeuwen is directed at ways to analyze, prioritize, and pay down a user’s debt. See, e.g., paragraphs 0005-0007; 0010; 0011; 0024; 0038-0056; 0061-0071; 0074-0078. Thus, Applicant submits VanLeeuwen suggests the complete opposite of the claimed invention: maximizing debt payments while minimizing the use of money for other purposes, such as savings, in order to achieve the reference’s primary purpose of paying down debt.

Applicant also traverse the Office Action's assertion that one of ordinary skill in the art would derive the idea of minimizing debt payments and maximizing saving payments in view of limited times for savings, such as when one is faced with a limited time for retirement savings. A persons' debts are not discharged at retirement. There would be no apparent reason for one of ordinary skill in the art evaluating such a situation where one is approaching retirement to suggest that they should maximize retirement savings at the expense of payment on debts, when the debt would still have to paid upon retirement. In fact, as discussed above, more interest would ultimately have to be paid on the debt over the long term if the debt is forsaken in lieu of retirement savings, which would result in a worse situation after retirement despite the additional savings. Still further, VanLeeuwen directly contradicts the logic of the Office Action by disclosing that it is only “[a]fter a user's debts are paid off, [that] payments can be applied to retirement or other future planning.” Paragraph 0087.

Applicant further submits that the other references cited in the Office Action fail to cure the deficiencies of VanLeeuwen. That is, none of the other cited references discloses or suggests providing a recommendation that minimizes current payments on user debts to payees and maximizes current payments to the user savings account, as recited in amended independent claim 1.

In particular, Applicant notes that the cited reference to Chevreau does not disclose these features of the invention. While the title of the reference is certainly similar to the title of the present application, the actual disclosure of Chevreau is merely suggestive of the idea that saving money is an important part of one's financial health. To the extent that Chevreau discusses debt, the reference merely notes that debt payments

and savings should be made in “parallel.” Moreover, in the specific example set forth in the reference, a greater portion of income (20%) is set for debt payment than the portion of income (10%) for savings. Still further, Chevreau notes “the importance of becoming debt-free: you want to be the one receiving interest payments, not the one dishing them out.” These disclosures fall well short of the idea of providing a recommendation that minimizes current payments on user debts to payees and maximizes current payments to the user savings account, as recited in amended independent claim 1.

Applicant additionally notes that, without the hindsight afforded by the disclosure of the present application, the features would most likely be counter-intuitive to one of ordinary skill in the art. As demonstrated by VanLeeuwen, methods in the art are designed to encourage people to reduce their debt, which leads to the maximization of debt payments, as oppose to maximizing money savings. The claimed invention, unlike previous art, provides novel and unobvious methods for get users to think about saving money prior to paying off debts. See, e.g., paragraph 0006 of the specification.

Thus, for at least the foregoing reasons, Applicant submits that the references cited in the Office Action fail to disclose or suggest the invention recited in amended independent claim 1.

The dependent claims also should be deemed allowable, in their own right, for defining other patentable features of the present invention in addition to those recited in the independent claims. Applicant requests further individual consideration of these dependent claims.

Applicant submits that the present application is in condition for allowance. Favorable reconsideration, withdrawal of the objections and rejections set forth in the Office Action, and a Notice of Allowability are requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. Office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Donald H. Heckenberg, Jr./

Donald H. Heckenberg, Jr.
Attorney for Applicant
Registration No. 60,081

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCHS_WS 3560108_1.DOC